



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/995,482

11/28/2001

Michael J. McKay

Leichtag001C

3333

7590

09/07/2004

THE MATTHEWS FIRM

Suite 1800

1900 West Loop South

Houston, TX 77027

EXAMINER

JONES, SCOTT E

ART UNIT

PAPER NUMBER

3713

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

421

Office Action Summary

Application No.

09/995,482

Applicant(s)

MCKAY ET AL.

Examiner

Scott E. Jones

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This office action is in response to the request for continued examination and amendment filed on June 10, 2004 in which applicant amends claims 17 and 21 and responds to the claim rejections. Claims 17-21 and 23-26 are pending.

Continued Examination Under 37 CFR 1.114

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 10, 2004 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual and Carrera et al. (U.S. 4,273,337).

Peterson discloses a multi-skill question and answer board game played by players of different skill and age levels. The game can improve player's skills in various educational subject matter. Additionally, an age factor is applied to a player's point total to compensate for

Art Unit: 3713

any age difference between competing players. Furthermore, the educational board game can be implemented in a computer-based format. Peterson discloses:

Regarding Claim 17:

- displaying a game board on a computer screen (figure 1);
- providing a game piece for each of said names of said actual player listing (column 1, line 5);
- asking a random question in turn to a given player on said actual player listing as the game piece of said given player is moved to a predetermined location (column 2, lines 18-20);
- inputting by said given player an answer to said random question (column 2, lines 18-20).

Regarding Claim 18:

- adjusting said score based on each name of said actual player listing based upon the respective age of each of said actual players (column 2, lines 46-51).

Peterson seems to lack explicitly stating:

Regarding Claim 17:

- inputting names of a plurality of players to a potential players listing;
- selecting names from said potential players listing for playing or not playing a subsequent game to thereby produce an actual player listing;
- electronically storing said names and ages of said potential players listing such that said names and ages are available for all subsequent games without reentering

Art Unit: 3713

said names and ages except for respective of said names and ages that are selectively deleted from said potential players listing;

- automatically moving a game piece on said game board a number of spaces based upon a random number generator for each of said names of said actual player listing;
- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct; and
- automatically accumulating a score for each name of said actual player listing.

Links 386CD Players Manual teaches of a software program that executes instructions to play a game on a computer. Peterson and Links 386CD Players Manual are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Links 386CD Players Manual teaches of:

Regarding Claim 17:

- inputting names of a plurality of players to a potential players listing (pp. 19-20);
- selecting names from said potential players listing for playing or not playing a subsequent game to thereby produce an actual player listing (pp. 19-20) ;
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said names except for respective of said names that are selectively deleted from said potential players listing (pp. 19-20).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the creating new players and choosing players for a round

feature of Links 386CD Players Manual in the computer-based implementation of Peterson. One would be motivated to do so because players would not have to input personal information (name and age) each time a game was played and would only have to select from a list of potential players to play a game. Furthermore, to one having ordinary skill in the art, it would have been obvious at the time of applicant's invention to input a player's age in Peterson's computer-based implementation. Doing so, a programmer could easily program the game to automatically adjust a player's score based on an age factor input into the game system.

Regarding claim 17, to one having ordinary skill in the art, well known programming techniques to automatically move a game piece on said game board for each of said names of said actual player listing; and automatically accumulating a score for each name of said actual player listing could be implemented in Peterson's computer-based implementation. One would be motivated to do so because these features would automate the process of the game, rather than relying on humans to manually move game pieces or tally player scores.

Furthermore, regarding claim 17, Carrera et al. relates to a board game apparatus. More particularly, it relates to a board game apparatus which is intended to facilitate communication between parents and children regarding facts and attitudes in the area of human sexuality.

Therefore, Carrera et al. and Peterson are analogous art. Carrera et al. teaches :

Regarding Claim 17:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct (Column 9, lines 53-56).

Although Carrera et al. does not explicitly teach the game piece remains in the predetermined location only if the answer to the question is correct, Carrera's method

Art Unit: 3713

functions the same way. That is, a player moves forward to the predetermined location only when the answer to the question is correct, otherwise, the player remains in the same location.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Carrera's game feature in Peterson. One would be motivated to do so because a player would be required to answer a question correctly in order to advance on the board in the game making the game more competitive and exciting.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual and Carrera et al. (U.S. 4,273,337) and further in view of Freda, III (U.S. 5,660,389).

Peterson in view of Links 386CD Players Manual and Carrera et al. teaches that as discussed above regarding claims 17 and 18. Peterson in view of Links 386CD Players Manual and Carrera et al. seems to lack explicitly teaching:

Regarding Claim 19:

- automatically and randomly selecting mystery positions on said game board such that mystery positions are not visible on said computer screen, and
- asking a plurality of random bonus questions when said respective player lands on said mystery position.

Freda, III teaches of a trivia game with a weighted scoring system that can be implemented in software to be played on a computer. Freda III, Peterson, Links 386CD Players Manual, and Carrera et al. are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Freda, III teaches:

Regarding Claim 19:

- selecting mystery positions (10) on said game board on said computer screen (figure 1, column 5, lines 24-30, and column 8, lines 21-48); and
- asking a plurality of random bonus questions when said respective player lands on said mystery position (column 8, line 49-column 9, line 7).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Freda's bonus markers and questions in Peterson in view of Links 386CD Players Manual and Carrera et al. One would be motivated to do so because the first player to reach the graduation space with the highest I.Q. wins the game. Therefore, the bonus questions would enable a player to earn extra points to add to the player's I.Q. value.

5. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual and Carrera et al. (U.S. 4,273,337) and further in view of Ho et al. (U.S. 6,120,300).

Peterson in view of Links 386CD Players Manual and Carrera et al. teaches that as discussed above regarding claims 17 and 18. Peterson in view of Links 386CD Players Manual seems to lack explicitly teaching:

Regarding claim 20:

- awarding said respective player with an attractive certificate.

Ho et al. teaches of a reward based computer-aided educational system that provides individual rewards for a player when they reach a milestone. Ho et al., Peterson, Links 386CD Players Manual and Carrera et al. are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Ho et al. teaches:

Regarding claim 20:

- awarding said respective player with an attractive certificate (column 14, lines 2-40).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the award features of Ho et al. in Peterson in view of Links 386CD Players Manual and Carrera et al.. One would be motivated to do so because a player could enjoy an individualized printed certificate upon winning Peterson's game further enriching a player/students learning process through rewards.

6. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Freda, III (U.S. 5,660,389).

Peterson discloses a multi-skill question and answer board game played by players of different skill and age levels. The game can improve player's skills in various educational subject matter. Additionally, an age factor is applied to a player's point total to compensate for any age difference between competing players. Furthermore, the educational board game can be implemented in a computer-based format. Peterson discloses:

Regarding claim 21:

- displaying a game board on a computer screen (figure 1);
- displaying a game piece for each player (column 1, line 5);
- asking the same random question to each player, each of said random questions having ranging difficulty, from one question to the next (column 2, lines 18-20);
- inputting an answer to said random question by each player (column 2, lines 18-20).

Art Unit: 3713

Peterson seems to lack explicitly disclosing:

Regarding Claim 21:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct ;
- automatically and randomly selecting one or more mystery positions on said game board such that mystery positions are not visible on said computer screen, and
- asking at least one random bonus question when each player lands on said mystery positions.

Freda, III teaches of a trivia game with a weighted scoring system that can be implemented in software to be played on a computer. Freda III, and Peterson are analogous art because each are relating to games that can be implemented in a computer-based format.

Furthermore, Freda, III teaches:

Regarding Claim 21:

- automatically and randomly selecting one or more mystery positions (10) on said game board such that mystery positions are not visible on said computer screen (figure 1, column 5, lines 24-30, and column 8, lines 21-48), and
- asking at least one random bonus question when each player lands on said mystery positions (column 8, line 49-column 9, line 7).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Freda's bonus markers and questions in Peterson. One would be motivated to do so because the first player to reach the graduation space with the

Art Unit: 3713

highest I.Q. wins the game. Therefore, the bonus questions would enable a player to earn extra points to add to the player's I.Q. value.

Furthermore, regarding claim 21, to one having ordinary skill in the art, well known programming techniques to automatically move a game piece on said game board for each of said names of said actual player listing; and automatically accumulating a score for each name of said actual player listing could be implemented in Peterson's computer-based implementation. One would be motivated to do so because these features would automate the process of the game, rather than relying on humans to manually move game pieces or tally player scores.

Furthermore, regarding claim 21, Carrera et al. relates to a board game apparatus. More particularly, it relates to a board game apparatus which is intended to facilitate communication between parents and children regarding facts and attitudes in the area of human sexuality. Therefore, Carrera et al. and Peterson are analogous art. Carrera et al. teaches :

Regarding Claim 21:

- allowing the game piece of said given player to remain in said predetermined location only if the answer to said random question is correct (Column 9, lines 53-56).

Although Carrera et al. does not explicitly teach the game piece remains in the predetermined location only if the answer to the question is correct, Carrera's method functions the same way. That is, a player moves forward to the predetermined location only when the answer to the question is correct, otherwise, the player remains in the same location.

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Carrera's game feature in Peterson. One would be

Art Unit: 3713

motivated to do so because a player would be required to answer a question correctly in order to advance on the board in the game making the game more competitive and exciting.

7. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Freda, III (U.S. 5,660,389) and further in view of Walker et al. (U.S. 5,921,864).

Peterson in view of Carrera et al. and Freda, III seems to lack explicitly teaching:

Regarding claim 23:

- providing a score for a question based on a length of time required for inputting an answer.

Walker et al. teaches of an electronic word puzzle game that can be played on a computer wherein the computer scores a player's performance based on time elapsed to answer the puzzle correctly. A higher score is indicative of a faster time to solution, that is, if the predetermined time period expires, the player's final score will be reduced to zero. Walker et al. teaches:

Regarding claim 23:

- providing a score for a question based on a length of time required for inputting an answer (column 4, lines 44-56).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate Walker's feature having a player's performance based on the time elapsed to answer question correctly in Peterson in view of Carrera et al. and Freda, III in order to add another dimension to the game making the game even more competitive.

Art Unit: 3713

8. Claims 24, 25, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Carrera et al. (U.S. 4,273,337) and Freda, III (U.S. 5,660,389) and further in view of Links 386CD Players Manual.

Peterson in view of Carrera et al. and Freda, III teach that as discussed above regarding claim 21. Peterson in view of Carrera et al. and Freda, III seem to lack explicitly stating:

Regarding Claim 24:

- inputting names of a plurality of players to a potential players listing.

Regarding Claim 25:

- selecting names from said players listing for playing or not playing a subsequent game to thereby produce an actual player listing;
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said names except for respective of said names that are selectively deleted from said potential players listing.

Links 386CD Players Manual teaches of a software program that executes instructions to play a game on a computer. Peterson, Freda, III, and Links 386CD Players Manual are analogous art because each are relating to games that can be implemented in a computer-based format. Furthermore, Links 386CD Players Manual teaches of:

Regarding Claim 24:

- inputting names of a plurality of players to a potential players listing (pp. 19-20).

Regarding Claim 25:

- selecting names from said players listing for playing or not playing a subsequent game to thereby produce an actual player listing (pp. 19-20);
- electronically storing said names of said potential players listing such that said names are available for all subsequent games without reentering said names except for respective of said names that are selectively deleted from said potential players listing (pp. 19-20).

It would have been obvious to one having ordinary skill in the art, at the time of the applicant's invention, to incorporate the creating new players and choosing players for a round feature of Links 386CD Players Manual in the computer-based implementation of Peterson in view of Carrera et al. and Freda, III. One would be motivated to do so because players would not have to input personal information (name and age) each time a game was played and would only have to select from a list of potential players to play a game. Furthermore, to one having ordinary skill in the art, it would have been obvious at the time of applicant's invention to input a player's age in Peterson's computer-based implementation. Doing so, a programmer could easily program the game to automatically adjust a player's score based on an age factor input into the game system.

Response to Arguments

9. Applicant's amendments, see pages 1-3 of the claim amendments, filed June 10, 2004, with respect to the rejection(s) of claim(s) 17 under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Links 386CD Players Manual and claim 21 under 35 U.S.C. 103(a) as being unpatentable over Peterson (U.S. 5,906,371) in view of Freda, III (U.S. 5,660,389) has been fully considered and is persuasive because Peterson does not disclose,

Art Unit: 3713

“allowing each of said game pieces of said players to remain in their respective predetermined positions only if their respective answers are correct.” What Peterson discloses is a player may have to move back two spaces (rather than the number of spaces generated on a random number generator) upon answering a question incorrectly. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott E. Jones whose telephone number is (703) 308-7133. The examiner can normally be reached on Monday - Thursday, 6:30 A.M. - 5:00 P.M..

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott E. Jones
Examiner
Art Unit 3713

sej

A handwritten signature in black ink that reads "Scott E. Jones". The signature is written in a cursive, flowing style with a large, stylized "S" and "J".